

	)	
<b>BILLY D. FRAZIER, on behalf of</b>	)	<b>Case No. 4:17-cv-160</b>
<b>himself and all others similarly situated,</b>	)	
	)	<b>Removed From</b>
<b>Plaintiff,</b>	)	<b>District Court of Polk County, Iowa</b>
	)	<b>Case No. LACL137644</b>
<b>vs.</b>	)	
	)	
<b>PJ Iowa, L.C.,</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant PJ Iowa, L.C., appears for the purpose of removing to the United States District Court for the Southern District of Iowa the action styled *Billy D. Frazier, on behalf of himself and others similarly situated v. PJ Iowa, L.C.*, Case No. LACL137644, currently pending in the Iowa District Court of Polk County. As grounds for the removal, Defendant states as follows:

2. On April 17, 2017, Plaintiff served the registered agent for Defendant PJ Iowa, L.C. with the Original Notice and a copy of the Petition.

3. There have been no further proceedings in the Iowa District Court for Polk County and there are no matters pending in the Iowa District Court for Polk County which will require resolution by this Court.

4. Defendant has attached a copy of the District Court file in this case as Exhibit 1 to this Notice of Removal in accordance with 28 U.S.C. § 1446(a).

5. Under 28 U.S.C. §§ 1441 and 1446, this case may be properly removed to this Court at any time within 30 days of Defendant being served with the Petition and Original Notice. Defendant is timely filing this removal within 30 days of service.

6. Removal of this action is proper because it is a civil action within this Court's original jurisdiction under 28 U.S.C. § 1331 and the Court's supplemental jurisdiction under 28 U.S.C. §1367(a).

### **Federal Question Jurisdiction**

7. Plaintiff's Petition for Damages alleges minimum wage violations of both the federal Fair Labor Standards Act and Iowa law. Because one of Plaintiff's claims arises under federal law, *i.e.*, 29 U.S.C. § 201, *et seq.*, this Court has original jurisdiction over this action under 28 U.S.C. § 1331. *See* Pl.'s Pet. at ¶ 13.

8. This Court also has supplemental jurisdiction over the remaining Iowa law claims because the allegations underlying those claims are so related to the allegations made in the FLSA claims that they form part of the same case or controversy under Article III of the United States Constitution. 28 U.S.C. § 1367. This action is, therefore, removable in its entirety under 28 U.S.C. § 1441(a) and (c).

### **All Other Requirements for Removal Have Been Met**

1. Pursuant to 28 U.S.C. §§ 1441(a) and 1446(a), the United States District Court for the Southern District of Iowa is the appropriate court for filing a Notice of Removal from the Iowa District Court of Polk County, where the action was filed.

2. Promptly upon filing this Notice of Removal, Defendant shall give written notice to Plaintiff and shall file a copy of this Notice of Removal with the clerk of the Iowa District Court for Polk County. 28 U.S.C. § 1446(d).

**WHEREFORE**, Defendant gives notice that this action is removed from the Iowa District Court of Polk County, to the United States District Court for the Southern District of Iowa.

Respectfully Submitted:

/s/ Bryan P. O'Neill

Jill R. Jensen-Welch, AT0003875

Bryan P. O'Neill, AT0011024

DICKINSON, MACKAMAN, TYLER & HAGEN, P.C.

699 Walnut Street, Suite 1600

Des Moines, Iowa 50309-3986

Telephone: (515) 244-2600

FAX: (515) 246-4550

jjensen@dickinsonlaw.com

boneill@dickinsonlaw.com

**CERTIFICATE OF SERVICE**

I hereby certify that on May 5, 2017, I electronically filed the foregoing document with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

Harley C. Erbe  
ERBE LAW FIRM  
2501 Grand Avenue  
Des Moines, Iowa 50312  
erbelawfirm@aol.com

Steven P. Wandro  
WANDRO & ASSOCIATES  
2501 Grand Avenue  
Des Moines, Iowa 50312  
swandro@2501grand.com

I further certify that I mailed the foregoing document and the notice of electronic filing by first-class mail to the following non-CM/ECF participants:

None

/s/ Tiffany Roosa  
Tiffany Roosa